

1 FARHAD NOVIAN (SBN 118129)
farhad@novianlaw.com
2 MICHAEL O'BRIEN (SBN 277244)
mobrien@novianlaw.com
3 **NOVIAN & NOVIAN LLP**
4 1801 Century Park East, Suite 1201
5 Los Angeles, California 90067
6 Telephone: (310) 553-1222
Facsimile: (310) 553-0222

7 Attorneys for Plaintiff NOVIAN & NOVIAN LLP
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9 **UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 NOVIAN & NOVIAN LLP, a California Case No.:
12 Limited Liability Partnership,

13 Plaintiff,

14 v.

15 OVH US LLC, a Delaware company;
16 CHARLES PROXY, an unknown entity;
17 and DOES 1 through 10, inclusive,

18 Defendants.
19

COMPLAINT FOR:

1. **COPYRIGHT
INFRINGEMENT**
2. **TRADEMARK
INFRINGEMENT**

JURY TRIAL DEMANDED

1 Plaintiff NOVIAN & NOVIAN, LLP, (“Plaintiff”) by and through its
 2 undersigned counsel, hereby complains against defendants OVH US LLC, a
 3 Delaware company; CHARLES PROXY, an unknown entity; and DOES 1
 4 through 10, inclusive (collectively, “Defendants”), and alleges as follows:

5 **NATURE OF THE ACTION**

6 1. Plaintiff creates and obtains rights to an amalgamation of text and
 7 photographs assembled at <https://www.novianlaw.com> (“the Novian Website”).
 8 Plaintiff owns these artworks in exclusivity, and possesses exclusive rights to,
 9 among other things, reproduce, distribute, display to the public, and create
 10 derivative works based upon the text and photographs. Defendants have knowingly
 11 and intentionally used such texts and photographs in the production of an
 12 unauthorized website which infringes Plaintiff’s copyrights.

13 2. Plaintiff provides legal services, including legal services for clients
 14 interested in completing cryptocurrency transactions. Defendants have knowingly
 15 made false representations about Plaintiff’s services causing confusion in the
 16 marketplace.

17 **JURISDICTION AND VENUE**

18 3. The Court has original subject matter jurisdiction over Plaintiff’s
 19 federal claims arising under the Copyright Act of 1976, 17 U.S.C., § 101 *et seq.*,
 20 and the Lanham Act, 15 U.S.C. § 1051 *et seq.*, pursuant to 28 U.S.C. §§ 1331, 1338
 21 (a) and (b).

22 4. This Court has personal jurisdiction over the Defendants because the
 23 events or omissions giving rise to the claim occurred, the tortious acts occurred,
 24 and a substantial part of the injury took place and continues to take place, in this
 25 judicial district and/or each of the Defendants can be found in this judicial district.

26 5. Venue is proper in the United States District Court for the Central
 27 District of California pursuant to 28 U.S.C §§ 1391(b), 1391(c), and 1400(a)
 28 because this is a judicial district in which a substantial part of the events giving rise

1 to the claims occurred the tortious acts occurred, and a substantial part of the injury
 2 took place and continues to take place, and because Defendants are subject to the
 3 Court's personal jurisdiction with respect to this action.

4 **THE PARTIES**

5 6. Plaintiff is a California limited liability partnership with a principal
 6 place of business at 1801 Century Park East, Suite 1201, Los Angeles, California
 7 90067.

8 7. Plaintiff is informed and believes, and thereon alleges, that Defendant
 9 OVH US LLC ("OVH") is, and at all times relevant was, a Delaware company with
 10 its principal place of business at 11480 Commerce Park Dr Ste 500 Reston, VA,
 11 20191.

12 8. Plaintiff is informed and believes, and thereon alleges, that Defendant
 13 CHARLES PROXY ("Proxy") is a pseudonym for a criminal or a criminal
 14 syndicate that uses the email address charlesproxy01@yahoo.com. Collectively
 15 OVH and Proxy are "Defendants."

16 9. Plaintiff is informed and believes, and thereon alleges, that
 17 Defendants advertise, distribute, and sell fraudulent services on websites such as
 18 *davidguilfordlawyers.com* to consumers throughout the United States, including
 19 consumers within this Court's jurisdiction.

20 10. Defendants DOES 1 through 10 are individuals and/or entities whose
 21 true names and capacities are presently unknown to Plaintiff. Plaintiff is informed
 22 and believes, and thereon alleges, that at all times herein mentioned each of the
 23 fictitiously named defendants was the agent, servant, and/or employee of his or her
 24 co-defendants and, in doing the things herein mentioned, was acting within the
 25 scope of his or her authority as such agent, servant, and/or employee, and with the
 26 permission and consent of his or her co-defendants, and that each of said fictitiously
 27 named defendants is, in some manner, liable or responsible to Plaintiff based upon
 28 the facts hereinafter alleged and thereby proximately caused injuries and damages

1 to Plaintiff as more fully alleged herein. Accordingly, Plaintiff sues said defendants
2 by said fictitious names. At such time as said defendants' true names and capacities
3 become known to Plaintiff, Plaintiff will seek leave to amend this Complaint to
4 insert said true names and capacities of such individuals and/or entities.

5 11. Plaintiff is informed and believes, and thereon alleges, that at all
6 relevant times, there existed a unity of interest and ownership between each and
7 every Defendant such that any individuality or separateness between each and
8 every Defendants has ceased. Defendants are the alter egos of one another in that
9 Defendants carried on their activities and business together, with an agreement to
10 share in the profits and spoils of their fraudulent activities and business. Adherence
11 to the fiction of the separate existence between Defendants would permit an abuse
12 of the corporate privilege and would sanction fraud, promote injustice, and
13 otherwise aid in the commission of unlawful conduct. This is true because, as
14 Plaintiff is informed and believes, at all relevant times, Defendants were
15 commingling assets in a manner that allowed Defendants to utilize and freely
16 transfer those assets amongst themselves. The commingling of assets and unlawful
17 business conduct, as alleged more fully herein, by Defendants through one another
18 was intended, among other things, to allow Defendants to avoid liability to Plaintiff
19 for valid obligations.

20 **FACTUAL ALLEGATIONS**

21 12. Plaintiff is a prominent law firm located in Los Angeles, California.
22 Plaintiff advertises legal services and promotes its attorneys through the Novian
23 Website.

24 13. Plaintiff has expended considerable resources and efforts in creating,
25 developing, and marketing its legal services, which are essential to its business.

26 14. Plaintiff owns, and had owned prior to the infringing acts complained
27 of herein, all copyrights to the Novian Website. Indeed, the Novian Website was
28 first created in 2021 and is registered with the United States Copyright Office as

1 Registration No. TXu 2-313-818. A true and correct copy of the aforementioned
2 registration is attached hereto as **Exhibit A**.

3 15. The Novian Website has grown to contain hundreds of individual
4 pages and, if printed, would be over 1800 pages in length having over a hundred
5 thousand words, dozens of unique photographs, and extremely strong search engine
6 optimization. True and correct copies of screen captures of certain portions of the
7 Novian Website are attached hereto as **Exhibit B**.

8 16. Plaintiff owns, and had owned prior to the infringing acts complained
9 of herein, trademark rights in its slogan STRATEGY TENACITY RESULTS (“the
10 Slogan”) for use in providing legal services. Plaintiff owns United States Patent &
11 Trademark Office (“USPTO”) Registration No. 6107860 for the Slogan which has
12 been used in commerce since at least 2009. A true and correct copy of the USPTO
13 registration for the Slogan is attached hereto as **Exhibit C**.

14 17. On or about October 19, 2021, Proxy registered the domain
15 davidguilfordlawyers.com (“the Infringing Website”) through Etica, Inc. (“Etica”).
16 Thereafter, Proxy hosted the Infringing Website on servers operated by Defendant
17 OVH.

18 18. In or about early 2022, Plaintiff discovered that Defendants were
19 offering legal services like those offered by Plaintiff (the “Infringing Services”) via
20 the Infringing Website which, without authorization, copies all or nearly all of the
21 Novian Website, including the Slogan. True and correct copies of screen captures
22 of the Infringing Services, as displayed and offered on the Infringing Website, are
23 attached hereto as **Exhibit D**.

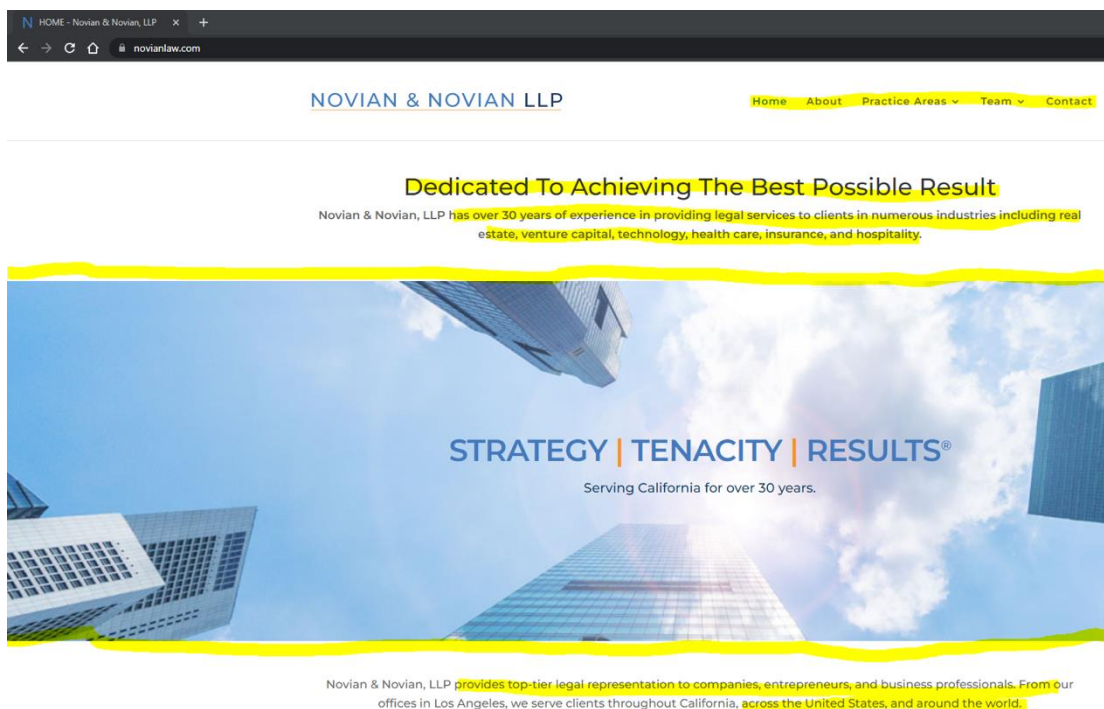
24 19. Unsurprisingly, Defendants’ conduct has caused significant
25 confusion. At least four potential clients have contacted Plaintiff to express
26 confusion regarding the relationship between the Novian Website and the
27 Infringing Website and inquire whether Plaintiff is affiliated with the Infringing
28 Website and/or the David Guilford law firm.

1 20. Based on information and belief, the Infringing Services involve
2 soliciting law firms and individuals worldwide for assistance in executing
3 cryptocurrency transactions.

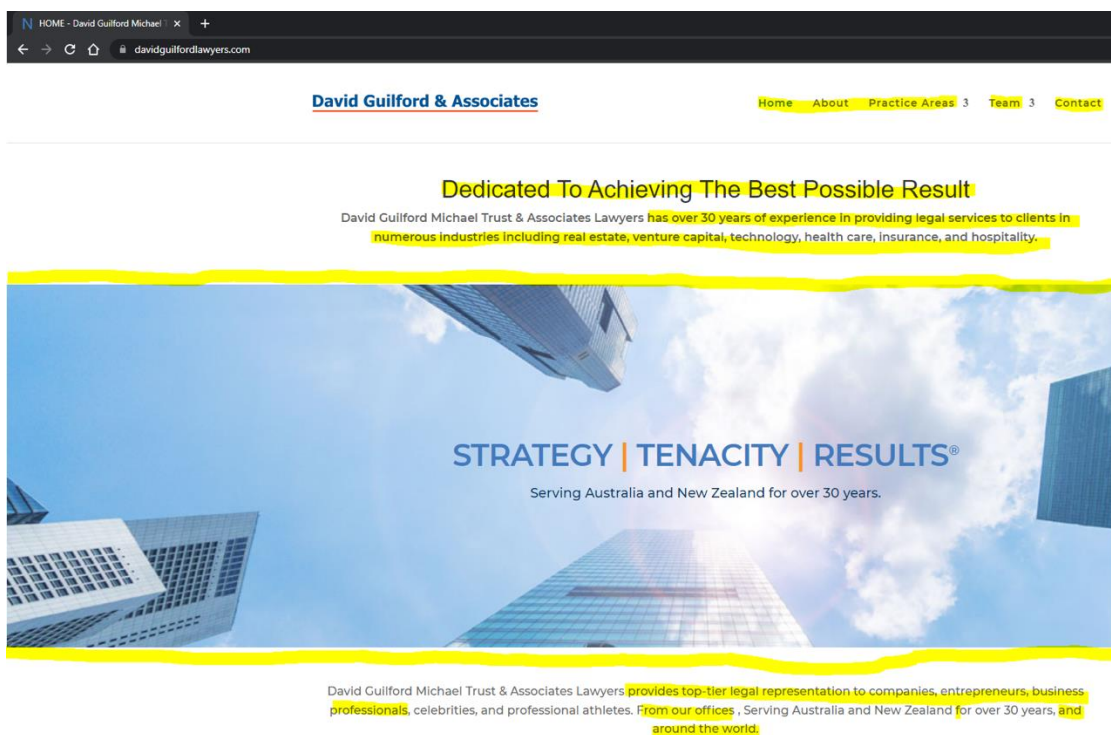
4 21. On March 14, 2022, Plaintiff completed an online form on OVH's
5 website informing OVH of the unlawful nature of the Infringing Website and
6 demanding that OVH remove the Infringing Website from its servers. OVH
7 acknowledged receipt of the information and demand but did not respond.

8 22. On April 14, 2022, Plaintiff completed a second online form on
9 OVH's website requesting that OVH remove the Infringing Website from its
10 servers. OVH responded by email and denied Plaintiff's request because "most of
11 our services are rented 'unmanaged' to our customers. This means that we only
12 have physical access to the server and cannot access its content (no root,
13 administrator, or user access). We are technically unable to modify or delete
14 content, or making an abusive behavior stop by intervening directly on the server,
15 as it is not managed by us."

23. The home page of the Novian Website is shown below. The common elements of the look and feel of the website are highlighted in yellow:



24. The home page of the Infringing Website is shown below. The common elements of the look and feel of the website are highlighted in yellow:



COUNT ONE:
COPYRIGHT INFRINGEMENT
(Against All Defendants)

25. Plaintiff repeats, reiterates and realleges each and every allegation contained in paragraphs designated 1 through 25, inclusive, of this Complaint, as if fully set forth herein.

26. Plaintiff is informed and believes, and thereon alleges, that Defendants infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from the Novian Website—namely, the Infringing Website—and by selling services advertised on the Infringing Website.

27. Due to Defendants' acts of infringement, Plaintiff has suffered substantial damages to its business in an amount to be established at trial.

28. Due to Defendants' acts of infringement, Plaintiff has suffered general and special damages in an amount to be established at trial.

29. Due to Defendants' acts of copyright infringement as alleged herein, Defendants have obtained direct and indirect profits Defendants would not otherwise have realized but for Defendants' infringement of the Novian Website. As such, Plaintiff is entitled to disgorgement of Defendants' profits directly and indirectly attributable to Defendants' infringement of the Novian Website in an amount to be established at trial.

30. Upon information and belief, Defendants created the Infringing Website despite being fully aware of Plaintiff's superior rights to the Novian Website. Within the time permitted by law, Plaintiff will make his election between actual damages and infringers profits. Plaintiff is also entitled to preliminary and permanent injunctive relief.

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COUNT TWO:
FEDERAL TRADEMARK INFRINGEMENT
(Against All Defendants)

31. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in Paragraphs 1 through 30, inclusive.

32. Plaintiff has been issued a USPTO registration for the Slogan, as attached hereto.

33. Defendants have made use of the Slogan, and variations thereof, without Plaintiff's consent, knowledge, or authority.

34. Defendants' unauthorized use of Plaintiff's Slogan in connection with Defendants' advertising and sale of the Infringing Services constitutes infringement under the Lanham Act of Plaintiff's registered trademark rights, misappropriates the valuable goodwill developed by Plaintiff in the Slogan, and is likely to cause (and has actually caused) confusion, mistake, and/or deception among the relevant public as to the source of Defendants' services or as to Plaintiff's affiliation, sponsorship or approval of Defendants' Infringing Services.

35. In fact, at least four individuals have contacted Plaintiff communicating their actual confusion and belief that Defendants were acting on behalf of Plaintiff.

36. Defendants' acts constitute the use in commerce of false designations of origin and false and/or misleading descriptions or representations, tending to describe and/or represent, in a false or misleading fashion, Defendants' services as those of Plaintiff's.

37. Plaintiff has earlier established, superior rights in its registered Slogan.

38. Defendants are aware of Plaintiff's use and corresponding rights in the Slogan. Defendants' aforementioned acts constitute the unauthorized use of

1 Plaintiff's Slogan, and variations thereof, for identical or confusingly similar
2 services, amounting to willful infringement of Plaintiff's trademark rights.

3 39. Defendants' acts of willful infringement of Plaintiff's rights in the
4 Slogan have caused and, unless restrained, will continue to cause, great and
5 irreparable injury to Plaintiff, Plaintiff's business, and to the goodwill and
6 reputation of Plaintiff, leaving Plaintiff no adequate remedy at law.

7 40. Defendants' acts are the proximate cause of such injury and damage.

8 41. By reason of the foregoing, Plaintiff is entitled to preliminary and
9 permanent injunctive relief against Defendants, and anyone acting in concert with
10 Defendants, to restrain further acts of infringement of Plaintiff's rights and, after
11 trial, to recover any damages proven to have been caused by reason of Defendants'
12 aforesaid acts of infringement and any enhanced damages justified by the willful
13 and intentional nature of such acts.

14 **PRAYER FOR RELIEF**

15 **WHEREFORE**, Plaintiff respectfully demands the following relief against
16 the Defendants with respect to each claim for relief:

17 With respect to all Defendants, and each of them, as to Counts One and Two:

- 18 1. That the Infringing Website be seized and Defendants' agents and
19 servants be enjoined from advertising or selling Infringing Services
20 via the Infringing Website;
- 21 2. That Plaintiff be awarded all profits of Defendants plus all losses of
22 Plaintiff in connection with Defendants' use of the Infringing Website
23 and the Slogan, the exact sum to be proven at the time of trial,
- 24 3. Pre-judgment and post-judgment interest;
- 25 4. Costs of suit incurred herein, including attorney's fees and expenses to
26 the extent provided for by law; and

27 ///

28 ///

1 5. Directing such other relief as the Court may deem appropriate to
2 prevent Defendants from participating in these or other copyright and
3 trademark infringements.

4 6. For such other and further relief as the Court may deem just and
5 proper.

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7 Dated: May 9, 2022

NOVIAN & NOVIAN LLP

8 By: /s/ Farhad Novian
9 FARHAD NOVIAN, State Bar No. 118129
10 MICHAEL O'BRIEN, State Bar No. 277244

11 Attorneys for Plaintiff NOVIAN & NOVIAN
12 LLP, a California Limited Liability Partnership
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DEMAND FOR JURY TRIAL

A jury trial is demanded pursuant to Fed. R. Civ. P. 38.

Dated: May 9, 2022

NOVIAN & NOVIAN LLP

By: /s/ Farhad Novian

FARHAD NOVIAN, State Bar No. 118129

MICHAEL O'BRIEN, State Bar No. 277244

Attorneys for Plaintiff S NOVIAN & NOVIAN
LLP, a California Limited Liability Partnership